

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

James Cliff Ford, #265454,)	
)	C/A No. 6:06-1217-GRA-WMC
Petitioner,)	
)	
v.)	<u>ORDER</u>
)	(Written Opinion)
Warden of Stevenson Correctional)	
Institute,)	
)	
Respondent.)	
_____)	

This matter comes before the Court for a review of the magistrate's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)((1)(B) and Local Rule 73.02(B)(2)(c), D.S.C., and filed January 22, 2007. Petitioner filed an action pursuant to 28 U.S.C. § 2254 on April 25, 2006. Respondent filed a return and motion for summary judgment on August 22, 2006. On August 24, 2006, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), Petitioner was advised of the summary judgment procedure and the possible consequences for failure to adequately respond. The petitioner filed response in opposition to summary judgment on November 20, 2006. The magistrate now recommends granting Respondent's motion for summary judgment.

Petitioner brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those

drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The magistrate makes only a recommendation to the Court. The recommendation has no presumptive weights, and the responsibility to make a final determination remains with this Court. *Matthews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate with instructions.” *Id.*

In order for objections to be considered by a United States District Judge, the objections must be timely and must specifically identify the portions of the Report and Recommendation to which the party objects and the basis for the objections. Fed R. Civ. P. 72(b); see *United States v. Schronce*, 727 F.2d 91, 94 n.4 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841, 845-47 nn.1-3 (4th Cir. 1985). “Courts have held *de novo* review to be unnecessary . . . in situations when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). In the absence of specific objections to the Report and Recommendation,

this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983).


Petitioner filed a Motion to Object on February 5, 2007. The petitioner's motion consists of the following sentence: "Petitioner hereby filing this motion to object from the Magistrate Judge's decision." Motion to Object, p. 1. Petitioner does not direct the Court to any specific portion of the Report and Recommendation or provide the Court with any basis for the objection. Petitioner was advised of the requirements for objections by the magistrate judge when the Report and Recommendation was issued. The magistrate judge specifically notified the petitioner that, in order to be considered, any "[o]bjections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections." Petitioner has failed to meet this requirement. Therefore, Petitioner's objections are without merit.

On January 24, 2007, Petitioner filed his own motion for summary judgment. After reviewing this motion, the magistrate's Report and Recommendation, and the Respondent's motion for summary judgment, it is ordered the Petitioner's Motion for Summary Judgment be DENIED.

Finally, after a review of the magistrate's Report and Recommendation, this Court finds the report accurately summarizes the facts of this case and the applicable law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that Respondent's Motion for Summary Judgment be GRANTED and Petitioner's Motion for Summary Judgment be DENIED.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

February 16, 2007

Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified within Rule 4, will waive the right to appeal.